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In re Application of )  
Shota Kitamura et al. )  
Application No. 09/392,865 )  
Filed: September 9, 1999 )  
Attorney Docket No. 005702-20035 )

DECISION ON PETITION

This is a decision on the petition, filed June 27, 2003, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action of November 29, 2002. A Notice of Abandonment was mailed on June 3, 2003.

Petitioner asserts that a response was timely filed. To support the assertion, petitioner submitted 1) a copy of a response entitled "Amendment Under 37 C.F.R. 1.111" which bears a Certificate of Mailing under 37 C.F.R. § 1.8(a) dated May 28, 2003, 2) a copy of a request for an extension of time of three months along with an authorization to charge the requisite fee to petitioner's Deposit Account, and 3) a postcard receipt as evidence that the response was received by the US Patent and Trademark Office on June 2, 2003. A copy of the response was submitted with the petition.<sup>1</sup>

The response was not of record in the application file at the time the Notice of Abandonment was mailed but has since been matched with the application file. The response was timely filed in

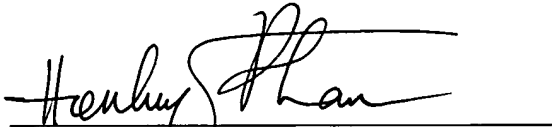
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<sup>1</sup>It is noted that the petition asserts that the issue fee payment was timely transmitted. The assertion should properly be a timely submission of a response to the non-final Office action of November 29, 2002. This is of no consequence since the timely filed response has now been associated with the application file.

view of the Certificate of Mailing and the extension of time of three months. The application is not abandoned in fact.

In view of the above stated reasons, the holding of abandonment is hereby withdrawn and the Notice of Abandonment vacated. Inconvenience to petitioner is regretted.

The application file is being returned to the examiner for further examination.



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